

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Rosiland Maybank**

Case No. 09-82293

Chapter 13

Soc. Sec. No.: xxx-xx-2710

Address: 295 Old Durham Road,  
Roxboro, NC 27573

Debtor

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**MOTION FOR AUTHORITY TO MODIFY CURRENT MORTGAGE**

**NOW COMES** the Debtor, by and through the undersigned attorney, pursuant to Sections 1303 and 363 of the Bankruptcy Code, requesting permission to modify current mortgage, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtor has filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on December 23, 2009.
2. The Debtor is the owner of certain real property (hereinafter referred to as "said property") located in Person County in the State of Nc and more commonly known as 295 Old Durham Road Roxboro, NC 27753.
3. The Debtor has already obtained a commitment for the modification, subject to approval by this Court.
4. The following table sets forth the approximate details of the Modification:

| Item   | Amount        |
|--|---------------|
| Unpaid principal balance being modified:   | \$116,811.72  |
| <u>Minus</u> Closing costs:  | ( 0.00)       |
| <u>Minus</u> Payoff on the current mortgage:   | ( 116,811.72) |
| <u>Equals</u> Amount, if any, being pulled out of equity in subject real estate by the Debtor: | \$0.00        |
| Interest Rate on new mortgage:   | 5.125%        |
| Term of new mortgage:  | 480 months    |

5. A "Good Faith Estimate", which provides more detail, is attached herewith.
6. Additional terms of the new mortgage: Taxes and insurance included in payment.
7. The current monthly mortgage payment is \$956.00.
8. The Debtor has already obtained a commitment for the modification. The projected monthly payment of the new mortgage is projected to be \$770.56 per month.
9. The monthly cost of the new mortgage will be less than the monthly cost of the current mortgage.
10. In addition to lowering her monthly mortgage payment, the Debtor wishes to finalize the modification for the following reasons:
  - a. To avail herself of a lower rate of interest on her real property
11. It is therefore in the best interest of the bankruptcy estate to allow the Debtor to modify current mortgage..
12. That \$450.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtor concerning the proposed mortgage modification, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with the mortgage company for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the modification, extra follow-up to make sure that the ensuing order is obtained and transmitted in a timely fashion to avoid delaying unnecessarily the projected closing of title. It is anticipated, based on many past experiences, that it will take at least 4 hours of attorney time to attend to said details.

**WHEREFORE**, the Debtor respectfully prays that the Court allow the said modification of the current mortgage, approve a reasonable attorney fee and allow payment of the attorney fee through the Debtor's Chapter 13 plan, and grant such other and further relief as to this Court seems just and proper.

Dated: February 3, 2010

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward Boltz

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Edward Boltz  
N.C. State Bar No.:23003  
1738-D Hillandale Rd.  
Durham, N.C. 27705  
(919) 286-1695

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27573

Debtor

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**CERTIFICATE OF SERVICE**

I, Renee Nolte, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on February 3, 2010, I served copies of the **Motion to Modify Current Mortgage**, by regular U.S. mail, upon the following parties (names and addresses):

Richard M. Hutson, II  
Chapter 13 Trustee  
Post Office Box 3613  
Durham, NC 27702

Michael West  
Bankruptcy Administrator  
Post Office Box 1828  
Greensboro, NC 27402

Amtrust Bank  
**Re-financier**  
Attn Debi Kaufman  
Ohio Savings Plaza 1801 East 9Th Street  
Cleveland, OH 44114-

Rosiland Maybank  
295 Old Durham Road  
Roxboro, NC 27573

All creditors with duly filed claims as indicated on the Trustee's Report of Filed Claims.

/s/ Renee Nolte

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Renee Nolte